

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 9178 of 2018**

Ramdayal Sahu, son of late Dandai Ram, aged about 66 years, R/o Dabripara,
Police Station Patna, District Koriya (CG). **---- Applicant**

Versus

State of Chhattisgarh, through Station House Officer, Police Station Patna,
District Koriya (CG). **---- Non-applicant**

For Applicant : Mr. D.N. Prajapati, Advocate
For Non-applicant : Mr. Ramakant Pandey, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****11.12.2018**

1. This is first bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court and his no bail application is pending before any other Court.
2. The applicant has been arrested in connection with Crime No.174/2018 registered in Police Station Patna, District Koriya for the offence punishable under Section 376(A,B) of IPC and Section 6 of Protection of Children from Sexual Offences Act, 2012.
3. Prosecution story in brief is that on 16.08.2018, the prosecutrix was below than 12 years of age. She is a resident of village Kasra. On 16.08.2018 she went to grocery shop of the applicant to purchase chocolate. At that time, the applicant took her inside the house and committed forcibly sexual intercourse with her. Due to fear, she had not narrated the incident to anyone on the same day.
4. Counsel for the applicant would submit that the applicant has not committed any offence and has been falsely implicated in the case. He drew my attention on MLC report of the prosecutrix where it has been mentioned that neither any external injury nor any internal injury was found in her body, old healed was ruptured. He further drew my attention on FSL report where it has been mentioned that sperm found on the Article-B, underwear of the prosecutrix was not sufficient for the examination of serologist.
5. On the other hand, counsel for the State would oppose the prayer for grant of bail to the applicant. However, he further submits that no criminal antecedent reported against the applicant in police case diary.
6. In the absence of medical report or if the doctor opined that no external or internal injuries were found on the body of the prosecutrix, it cannot be said that prima facie, no case is made out.
7. Looking to the facts and circumstances of the case, looking to the age of prosecutrix, looking to the seriousness of the offence and looking to the impact of granting bail to the applicant on society, this Court is not inclined to give benefit of Section 439 of the Cr.P.C. to the applicant. Consequently, the bail application is rejected.
8. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE